



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE
International Trade Administration

[C-580-869]

Large Residential Washers from the Republic of Korea: Amendment to the Scope of the Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) is amending the scope of the countervailing duty (CVD) investigation of large residential washers (washing machines) from the Republic of Korea (Korea) to exclude top-load washing machines with a vertical rotational axis and a rated capacity of less than 3.70 cubic feet.

EFFECTIVE DATE: July 27, 2012

FOR FURTHER INFORMATION CONTACT: Justin Neuman or Milton Koch, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0486 and (202) 482-2584, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 19, 2012, the Department initiated the CVD investigation of washing machines from Korea.¹ On May 29, 2012, the Department issued its affirmative preliminary determination.²

¹ See Large Residential Washers From the Republic of Korea: Initiation of Countervailing Duty Investigation, 77 FR 4279 (January 27, 2012) (Initiation Notice).

² See Large Residential Washers From the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination, 77 FR 33181 (June 5, 2012) (Preliminary Determination).

In accordance with the preamble to the Department's regulations,³ in our Initiation Notice the Department set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the Initiation Notice. No interested party submitted comments during that period. However, on May 17, 2012, the petitioner, Whirlpool Corporation, requested that the Department exclude automatic washing machines with a vertical rotational axis and a rated capacity of less than 3.70 cubic feet from the scope of this and the concurrent antidumping duty (AD) investigations of washing machines from Mexico and Korea. Subsequently, the Department received comments from respondents Samsung Electronics Co., Ltd. (Samsung) on May 23, 2012, and from LG Electronics, Inc. on May 24, 2012, objecting to the petitioner's scope exclusion request. On June 21, 2012, the Department contacted U.S. Customs and Border Protection (CBP) seeking its input on whether the petitioner's proposed scope exclusion request, if granted by the Department, would be enforceable by CBP.⁴ On July 11, 2012, General Electric Company (GE), a domestic producer and importer of washing machines, filed comments on the record of the AD investigation of washing machines from Korea in support of the petitioner's scope exclusion request. GE's comments were placed on the record of this CVD investigation on July 18, 2012. Also on July 18, Staber Industries, Inc., a domestic producer of washing machines, filed comments in support of the petitioner's scope exclusion request.

Based on the comments received from the interested parties and information provided by CBP, the Department is amending the scope of the investigations to exclude top-load washing machines with a vertical rotational axis and a rated capacity of less than 3.70 cubic feet.⁵ Section

³ See Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27323 (May 19, 1997).

⁴ See Memorandum from Brandon Custard to The File, "Exchange with CBP Regarding Petitioner's Scope Exclusion Request," dated June 21, 2012.

⁵ See Large Residential Washers from Mexico: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, and Large Residential Washers from the Republic of Korea: Preliminary

702(b)(1) of the Tariff Act of 1930 (as amended) (the Act), states that a “petition may be amended at such time, and upon such conditions, as the administering authority . . . may permit.”

In making a request to amend the scope of the investigations, the petitioner is essentially asking for the Department to amend the petition. It is, therefore, within the Department’s authority to permit such an amendment.⁶ Further, it is the Department’s practice to provide ample deference to the petitioner with respect to the merchandise from which it intends to seek relief.⁷

Amended Scope of the Investigation

The product covered by this investigation is all large residential washers and certain subassemblies thereof from Korea.

For purposes of this investigation, the term “large residential washers” denotes all automatic clothes washing machines, regardless of the orientation of the rotational axis, except as noted below, with a cabinet width (measured from its widest point) of at least 24.5 inches (62.23 cm) and no more than 32.0 inches (81.28 cm).

Also covered are certain subassemblies used in large residential washers, namely: (1) all assembled cabinets designed for use in large residential washers which incorporate, at a minimum: (a) at least three of the six cabinet surfaces; and (b) a bracket; (2) all assembled tubs⁸ designed for use in large residential washers which incorporate, at a minimum: (a) a tub; and (b) a seal; (3) all assembled baskets⁹ designed for use in large residential washers which incorporate, at a minimum: (a) a side wrapper;¹⁰ (b) a base; and (c) a drive hub;¹¹ and (4) any combination of the foregoing subassemblies.

Determination of Sales at Less Than Fair Value and Postponement of Final Determination, signed July 27, 2012 (not yet published), for the scope amendments in the concurrent AD washing machine investigations.

⁶ See section 702(b)(1) of the Act.

⁷ See “Memorandum from The Team to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations: Exclusion of Top-Load Washing Machines with a Rated Capacity Less than 3.70 Cubic Feet from the Scope of the Investigations,” dated July 27, 2012, for further discussion.

⁸ A “tub” is the part of the washer designed to hold water.

⁹ A “basket” (sometimes referred to as a “drum”) is the part of the washer designed to hold clothing or other fabrics.

¹⁰ A “side wrapper” is the cylindrical part of the basket that actually holds the clothing or other fabrics.

Excluded from the scope are stacked washer-dryers and commercial washers. The term “stacked washer-dryers” denotes distinct washing and drying machines that are built on a unitary frame and share a common console that controls both the washer and the dryer. The term “commercial washer” denotes an automatic clothes washing machine designed for the “pay per use” market meeting either of the following two definitions:

(1) (a) it contains payment system electronics;¹² (b) it is configured with an externally mounted steel frame at least six inches high that is designed to house a coin/token operated payment system (whether or not the actual coin/token operated payment system is installed at the time of importation); (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners;¹³ or

(2) (a) it contains payment system electronics; (b) the payment system electronics are enabled (whether or not the payment acceptance device has been installed at the time of importation) such that, in normal operation,¹⁴ the unit cannot begin a wash cycle without first receiving a signal from a bona fide payment acceptance device such as an electronic credit card reader; (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners.

¹¹ A “drive hub” is the hub at the center of the base that bears the load from the motor.

¹² “Payment system electronics” denotes a circuit board designed to receive signals from a payment acceptance device and to display payment amount, selected settings, and cycle status. Such electronics also capture cycles and payment history and provide for transmission to a reader.

¹³ A “security fastener” is a screw with a non-standard head that requires a non-standard driver. Examples include those with a pin in the center of the head as a “center pin reject” feature to prevent standard Allen wrenches or Torx drivers from working.

¹⁴ “Normal operation” refers to the operating mode(s) available to end users (*i.e.*, not a mode designed for testing or repair by a technician).

Also excluded from the scope are automatic clothes washing machines with a vertical rotational axis and a rated capacity of less than 3.70 cubic feet, as certified to the U.S.

Department of Energy pursuant to 10 CFR § 429.12 and 10 CFR § 429.20, and in accordance with the test procedures established in 10 CFR Part 430.

The products subject to this investigation are currently classifiable under subheading 450.20.0090 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this investigation may also enter under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.

Suspension of Liquidation

As noted in the Preliminary Determination, sections 703(d)(1)(B) and (2) of the Act require the Department, upon making an affirmative preliminary determination, to direct CBP to suspend liquidation of all entries of the subject merchandise from Korea, other than those exported by companies with a de minimis ad valorem subsidy rate, that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the preliminary determination in the Federal Register, and to require a cash deposit for such entries of the merchandise in the amounts of the calculated subsidy rates or all-others rate, as appropriate.¹⁵ Because the scope of this investigation is being amended, the Department will direct CBP to suspend liquidation of entries of the subject merchandise from Korea using the amended scope language.

¹⁵ See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations, 76 FR 61042 (October 3, 2011).

Public Comment

Interested parties who wish to comment on the amended scope language should do so when submitting case briefs. As noted in the Preliminary Determination, the Department will notify parties of the schedule for submitting case briefs and rebuttal briefs, in accordance with 19 CFR 351.309(c) and 19 CFR 351.309(d)(1), respectively. A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Based on timely requests by the petitioner and Samsung, the Department intends to hold a public hearing to afford interested parties an opportunity to discuss the arguments raised in case or rebuttal briefs. The Department will notify all parties regarding the scheduling of the public hearing, which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm, by telephone, the date, time, and place of the hearing 48 hours before the scheduled time.

This notice is issued pursuant to 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

July 31, 2012 _____
Date

[FR Doc. 2012-19152 Filed 08/03/2012 at 8:45 am; Publication Date: 08/06/2012]